

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

SCOTT AND RHONDA BURNETT,	)	
RYAN HENDRICKSON, JEROD BREIT,	)	
SCOTT TRUPIANO, and JEREMY KEEL,	)	
on behalf of themselves and all	)	
others similarly situated,	)	
Plaintiffs,	)	Case No.
vs.	)	19-CV-00332-SRB
	)	
THE NATIONAL ASSOCIATION OF	)	Kansas City, Missouri
REALTORS, et al.,	)	October 31, 2023
Defendants.	)	

.....  
TRANSCRIPT OF JURY TRIAL - VOLUME 11 OF 11  
BEFORE THE HONORABLE STEPHEN R. BOUGH  
UNITED STATES DISTRICT COURT JUDGE

Proceedings recorded by electronic stenography  
Transcript produced by computer

APPEARANCES

For the Plaintiffs:	MR. MICHAEL S. KETCHMARK
	MR. BENJAMIN H. FADLER
	MR. SCOTT A. McCREIGHT
	Ketchmark & McCreight PC
	Two Hallbrook Place
	11161 Overbrook Road, Suite 210
	Leawood, Kansas 66211
	MR. BRANDON J.B. BOULWARE
	Boulware Law LLC
	1600 Genessee Street, Suite 416
	Kansas City, Missouri 64102

1 APPEARANCES  
2 (continued)

3 For the Defendant MR. ROBERT D. MacGILL  
HomeServices of America: MR. MATTHEW T. CIULLA  
MacGill PC  
4 156 E. Market Street, Suite 1200  
Indianapolis, Indiana 46204

5 MR. JAY VARON  
6 Foley & Lardner LLP  
3000 K Street, NW, Suite 600  
7 Washington, DC 20007-5109

8 MR. JEAN PAUL BRADSHAW, II  
Lathrop GPM LLP  
9 2345 Grand Avenue, Suite 2200  
Kansas City, Missouri 64108

10 For the Defendant NAR: MR. ETHAN GLASS  
11 MS. GEORGINA INGLIS  
MS. SAMANTHA STRAUSS  
12 Cooley LLP  
1299 Pennsylvania Avenue NW Ste 700  
13 Washington, DC 20004

14 MS. BEATRIZ MEJIA  
Cooley LLP  
15 3 Embarcadero Center, 20th Floor  
San Francisco, California 94111

16 MS. SARAH M. TOPOL  
17 Cooley LLP  
55 Hudson Yards  
18 New York, New York 10001

19 For the Defendant MR. TIMOTHY RAY  
Keller Williams: MR. BARACK S. ECHOLS  
20 Holland & Knight  
150 N. Riverside Plaza, Ste 2700  
21 Chicago, Illinois 60606

22 MS. ANNA P. HAYES  
MR. DAVID C. KULLY  
23 Holland & Knight  
800 17th Street NW  
24 Washington, DC 20006

1 APPEARANCES  
2 (continued)

3 MS. DINA McKENNEY  
4 Holland & Knight  
5 1722 Routh Street, Suite 1500  
6 Dallas, Texas 75201

7 MR. DAVID R. BUCHANAN  
8 Brown & James, PC-KCMO  
9 2345 Grand Blvd., Suite 2100  
10 Kansas City, Missouri 64108  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

23 Gayle M. Wambolt, RMR, CRR  
24 U.S. Court Reporter, Room 7552  
25 Charles Evans Whittaker Courthouse  
400 East Ninth Street - Kansas City, MO 64106

2514

Gayle M. Wambolt, CCR No. 462  
Registered Merit Reporter

INDEX  
JURY TRIAL  
OCTOBER 31, 2023

EVENT

PAGE

Question by Jury

Verdict

2515

Gayle M. Wambolt, CCR No. 462  
Registered Merit Reporter

1 TUESDAY, OCTOBER 31, 2023

2 (The following proceedings were had out of the presence of the  
3 jury:)

4 THE COURT: We are back on the record. The jury  
5 sent back a question. Could we have Exhibit 4592A just in  
6 case it's needed? Dated and signed. And my response is,  
7 Please see attached. Mr. Boulware gave me 4592A.

8 Any objection from plaintiff?

9 MR. KETCHMARK: No, Your Honor.

10 THE COURT: From defendants?

11 MS. TOPOL: No, Your Honor.

12 MS. HAYES: No, Your Honor.

13 MR. CUILLA: No, Your Honor.

14 (A recess was taken.)

15 (The following proceedings were had out of the presence of the  
16 jury:)

17 THE COURT: Assuming nothing to address before we  
18 get the verdict?

19 MR. KETCHMARK: Not from plaintiffs, Your Honor.

20 THE COURT: Okay. Go get them.

21 (The following proceedings were had in the presence  
22 of the jury:)

23 THE COURT: Lady and gentlemen of the jury, have you  
24 reached a verdict?

25 THE FOREPERSON: Yes.

2516

1 THE COURT: Could you please give that to Shauna.

2 Bad time to get your robe stuck.

3 Verdict form, do you find that class plaintiffs have  
4 proved by a preponderance of the evidence that a conspiracy  
5 existed to follow and enforce the cooperative compensation  
6 rule in the subject MLSs during the conspiracy period alleged  
7 in this case, April 29, 2015 through June 30, 2022?

8 The answer is yes.

9 Two, do you find the conspiracy set forth in  
10 question one had the purpose or effect of raising, inflating,  
11 or stabilizing broker commissions paid by the home sellers?

12 Yes.

13 Which of the following corporations or entities do  
14 you find knowingly and voluntarily joined the conspiracy as  
15 set forth in question one with the purpose of furthering its  
16 goals?

17 National Association of Realtors, yes; HomeServices  
18 of America, Inc., yes; BHH Affiliates, LLC, yes; HSF  
19 Affiliates, LLC, yes; Keller Williams Realty, Inc., yes;  
20 Anywhere Real Estate, Inc., yes; RE/MAX, LLC, yes.

21 Do you find that the conspiracy set forth in  
22 question one caused class plaintiffs to pay more for real  
23 estate brokerage services when selling their homes than they  
24 would have paid absent that conspiracy?

25 Yes.

2517

1 State the amount of damages proved by the class  
2 plaintiffs: \$1,785,310,872.

3 It's signed by all eight of the jurors.

4 Just like I polled you earlier about different  
5 questions, I'm going to poll you now.

6 (Jury polled.)

7 THE COURT: So listen, you guys know that there's a  
8 lot of attention and a lot of emotion involved in this case.  
9 Every lawyer known to man wants to talk to a juror after a  
10 verdict, and yours is going to be something too.

11 What I've already told these people is that if you  
12 tell them once that you don't want to talk to them, that  
13 should be enough. If you have to tell them twice, tell me.

14 So if you want to talk to anybody that approaches  
15 you, you're free to. If you want to say no, you're free to.  
16 I don't expect there to be any violence or anything like that.

17 But I perceive that some of you would prefer to get  
18 your coat and go get in your car and go home unperturbed; and  
19 so I've asked an additional court security officer to be  
20 present to take you down to walk you out. And nobody else  
21 will be in your elevator.

22 If you fall into that camp, then that option is  
23 available to you, but, again, I don't think any of the lawyers  
24 are going to do anything inappropriate. They want to learn,  
25 and so that's -- this is one way they can go about learning.

2518

On behalf of me and the other judges of the Western District of Missouri, thank you. You sat through one of our longest trials in this courthouse this year, and you paid attention and you took notes, and that is extremely meaningful.

Our democracy depends on people like you, even though none of you really wanted to sit through a three-week trial. You all had other stuff to do. You sat through it and you did it, and that's important to running a constitutional system of government. So you have my thanks.

I'm going to come back there and shake your hand back in the jury room and tell you thank you for your service, and we'll call it quits from there.

Thank you.

(The following proceedings were had out of the presence of the jury:)

THE COURT: I'm going to have Kaitlin scan that verdict form to you so each of you have it. Would any of you like to inspect the original before she scans it to you?

MR. KETCHMARK: Not necessary, Your Honor.

THE COURT: Okay. We'll have that scanned to you. I'll be right back after I go tell them thank you, and then if there's anything you want me to address at that time, I can do so.

(The following proceedings were had out of the



1 presence of the jury:)

2 THE COURT: Back on the record. Just for the  
3 record, none of the jurors want to talk to anybody, especially  
4 the media, and I told them you guys were all pros and that you  
5 wouldn't bug them. But I told them if anybody calls, just  
6 say, Judge Bough said I don't have to talk to you.

7 I'm not saying that that's forever, and if you guys  
8 call them, that's not going to ever hurt my feelings. But if  
9 they say no once, I'd ask you to please -- ask more than  
10 please. Tell you don't call them again if they tell you they  
11 don't want to talk.

12 Anything further from the plaintiff?

13 MR. KETCHMARK: No, Your Honor. Thank you.

14 THE COURT: Mr. Glass?

15 MR. GLASS: No, thank you, Your Honor.

16 THE COURT: Mr. Ray?

17 MR. RAY: Your Honor, we just wanted to put on the  
18 record that during the course of my closing argument, one of  
19 the jurors, the female on the jury, was actually asleep. So I  
20 don't know if that had any impact, but I did want to note that  
21 for the record.

22 THE COURT: Thank you, sir.

23 Mr. MacGill?

24 MR. MacGILL: Nothing, Your Honor.

25 THE COURT: We'll be in recess.

2520

REPORTER'S CERTIFICATE

I certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter.

\_\_\_\_\_  
Date

\_\_\_\_\_  
/s/Gayle M. Wambolt  
GAYLE M. WAMBOLT, CRR, RMR  
United States Court Reporter

2521

Gayle M. Wambolt, CCR No. 462  
Registered Merit Reporter